

REMARKS

The applicants note with appreciation the acknowledgement of the claim for priority under section 119 and the notice that all of the certified copies of the priority documents have been received.

The applicants acknowledge and appreciate receiving an initialed copy of the form PTO-1449 that was filed on September 16, 2003.

Claims 1 – 6 are pending. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

Claims 1 – 3, 5 and 6 were rejected under 35 USC 102(b) as being anticipated by JP6239198, Hiroyoshi (“Hiroyoshi”). The rejection is respectfully traversed for reasons including the following, which are provided by way of example.

As described in the application, the invention recognizes the problem of protecting a pedestrian that collides with a vehicle, and mounts on top of the hood panel. (E.g., specification page 1 line 21 – page 2 line 1.) Independent claim 1 recites in combination, for example, “the airbag comprising ... two fall preventing portions for respectively covering the vicinities of the left and right edges of a top surface of the hood panel, the fall preventing portions being projected upward so as to prevent the pedestrian from falling down, the left and right fall preventing portions forming an area therebetween, the area being recessed with respect to the left and right fall preventing portions, whereby a pedestrian can be restrained in the area.”

Consequently, the pedestrian on the hood panel can be restrained in the area between the fall preventing portions on top of the hood panel, and can be prevented from falling down on the road surface. (E.g., specification page 10, lines 2 – 13.)

On the other hand, without conceding that Hiroyoshi discloses any feature of the present invention, Hiroyoshi is directed to a vehicular airbag. The airbag in Hiroyoshi fails to have an area between airbags for restraining a pedestrian. (Eg., Hiroyoshi Fig. 8.) Moreover, the airbags 72 illustrated in Hiroyoshi, Fig. 8 are likely joined by connecting bands 74, illustrated in Fig. 9. According to the applicant, Hiroyoshi paragraph 0034 describes that the bands 74 join the airbags 72 closely so that a pedestrian might not be caught in the gap between the airbags 72.

The office action asserts that Hiroyoshi anticipates the invention as claimed. To the contrary, Hiroyoshi fails to set forth each and every element found in the claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Hiroyoshi fails to teach or suggests, for example, "the left and right fall preventing portions forming an area therebetween, the area being recessed with respect to the left and right fall preventing portions, whereby a pedestrian can be restrained in the area." (See, e.g., claim 1.) To the contrary, Hiroyoshi does not provide an area between the preventing portions, and affirmatively teaches that the airbags 72 should be joined closely to prevent a pedestrian from being caught in the gap.

Hiroyoshi fails to teach or suggest, for example, these elements recited in independent claim 1. It is respectfully submitted therefore that claim 1 is patentable over Hiroyoshi.

For at least these reasons, the combination of features recited in independent claim 1, when interpreted as a whole, is submitted to patentably distinguish over the prior art. In addition, Hiroyoshi clearly fails to show other recited elements as well.

With respect to the rejected dependent claims, applicant respectfully submits that these claims are allowable not only by virtue of their dependency from independent claim 1, but also because of additional features they recite in combination.

New claims 7 – 8 have been added to further define the invention, and are believed to be patentable for reasons including these set out above. Support for claim 7 is located in the specification, for example, page 8, lines 23 – 25. Support for claim 8 is located in the specification, for example, page 8 lines 18 – 22.

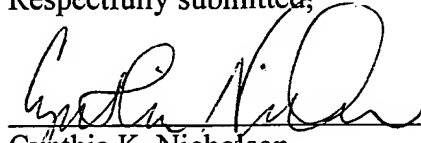
The applicants respectfully submit that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. The applicants do not concede that the cited prior art shows any element recited in the claims. However, the applicants have provided specific examples of features in the claims that are clearly not present in the cited prior art.

The applicants strongly emphasize that one reviewing the prosecution history should not interpret any of the examples described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, for the sake of simplicity, the applicants have provided examples of why the claims described above are distinguishable over the cited prior art.

In view of the foregoing, the applicants respectfully submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Cynthia K. Nicholson', written over a horizontal line.

Cynthia K. Nicholson

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